

Jury Must Assess Miller

FBI Ex-Agent Called Bumbler, Capable

By Katharine Macdonald
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LOS ANGELES—It has been eight weeks since Richard William Miller took his place at the defense table in a federal courtroom here, and jurors have grown accustomed to his face, doughy and heavy with chins. Soon, they will have to decide who lives behind his passive, almost blank expression.

Is he Miller, who bumbled irresponsibly through 20 years as an FBI agent, incapable of doing anything by the book?

Or is he Miller, who knew the book perfectly well, an agent good enough to earn a rating of "excellent" when a case interested him?

The bumbler is being presented to the jury not by the prosecution, which rested its case Sept. 12, but by Miller's attorneys, Stanley Greenberg and Joel Levine. Their defense is not as odd as it might seem.

Miller is accused of conspiring with, and passing classified documents to, Soviet emigre Svetlana Ogorodnikova, who is serving an 18-year sentence after pleading guilty in June to espionage. He is the first Federal Bureau of Investigation agent to be charged with espionage.

Testimony in the cases of Ogorodnikova and Miller has established that the two met in May 1984. Miller, who had been warned by his bureau superiors that Ogorodnikova was unreliable and should be avoided, was soon enmeshed in a sexual relationship with her. The following October, they were arrested, along with Ogorodnikova's husband, Nikolai.

Miller's defense lawyers do not deny his affair with Svetlana Ogorodnikova nor do they deny that she offered Miller \$65,000 in gold and cash in return for classified documents. They do not dispute that she and Miller planned a trip to Vienna, where he was to meet officials of the KGB, the Soviet security police.

But they contend that Miller did all this in the hope of infiltrating a

Soviet spy ring, thereby resurrecting a career in shambles. Greenberg and Levine have worked to elicit testimony showing that it was not out of character for Miller to break all the rules in the execution of his secret scheme.

The prosecution is trying to show not that Miller was necessarily a good agent, just good enough to know better.

A parade of FBI agents has

trooped to the witness stand, called by the defense, to testify that Miller once left his key in the door, leaving an FBI office open overnight; lost airline tickets; lost government travel vouchers; lost a bureau-issue gasoline credit card.

The agents said his weight was a constant problem. They said he failed to file expense vouchers and reports of his investigations. They said his job performance drew frequent reprimands from his superiors and official bureau censures.

Miller's prosecutors, U.S. Attorney Robert C. Bonner and Assistant U.S. Attorney Russell Hayman, cross-examined the agents in an apparent effort to correct the record. Wasn't Miller rated excellent a few times? And, while he may have been late filing reports, isn't it true that he always had notes of his interviews?

The trial moves slowly. The defense attorneys often seem to be prying testimony from reluctant witnesses. And there are days when prosecutor Bonner so frequently rises with objections that he resembles a jack-in-the-box. Rarely a day goes by without lengthy bench conferences between U.S. District Court Judge David Kenyon and the attorneys for both sides.

Miller's attorneys have subpoenaed FBI Director William H. Webster. Earlier, prosecution witnesses testified that the FBI would never try to infiltrate the KGB, as Miller claims he was trying to do. Webster was recently quoted by Scripps Howard News Service as saying that the FBI uses double agents to confuse Soviet spies.

Ogorodnikova, imprisoned in northern California, had been expected to testify in this trial but has not appeared. There was a surprise appearance by another of Miller's lovers, Marta York, a 36-year-old Salvadoran emigre. She testified that she had an affair with Miller, a married father of eight, who told her he was divorced.

York, who admitted under cross-examination that she had told investigators conflicting stories, said Miller telephoned her after his arrest. "He told me he was accused of selling some kind of confidential material," she said. "I asked him if he did or he didn't. He paused, then he say, 'Yes, I only did one.' I ask him if he got anything out of it. He said, 'I thought I had a good deal.'"

York added that Miller had also told her he was not guilty: "There's times he say he don't done it, and there's times he say he done it."